

## REMARKS

Reconsideration of the present application is respectfully requested. Claims 1, 3-7, 13-15, 17-18, 23-26 and 28-31 and 34 were pending. In this amendment, claims 1, 4, 14, 17, 24-26, 28, and 31 have been amended. No claims have been canceled. Claims 35-39 have been added. Therefore, claims 1, 3-7, 13-15, 17-18, 23-26 and 28-31 and 34-39 are presented for examination.

### Rejections under 35 USC § 103

Claims 1, 3-7, 13-15, 17, 18, 23-26, and 28-31 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of U.S. Patent No. 6,650,619 to *Schuster* et al. ("*Schuster*") in view of U.S. Patent No. 6,446,108 to *Rosenberg* et al. ("*Rosenberg*") in view of U.S. Patent No. 6,661,773 to *Pelissier* et al. ("*Pelissier*"). Applicants respectfully traverse. Considering each claim as a whole, none of the claims are suggested to one of ordinary skill in the art by the combined teachings of *Schuster* in view of *Rosenberg* in view of *Pelissier*.

For example, claim 1, as amended, recites the limitations of: "receiving, in the intermediary node, a second message destined for the upstream node, the second message from a second downstream node; in response to receiving the second message, determining in the intermediary node whether the back-off time period in said first outgoing back-off message sent to the first downstream node has expired; and if the back-off time period sent to the first downstream node has not expired, sending a second outgoing back-off message from the intermediary node to the second downstream node."

The combined teachings of *Schuster* in view of *Rosenberg* in view of *Pelissier* do not disclose, suggest, or render obvious at least these limitations of claim 1.

*Schuster* describes a method and system for facilitating increased call traffic by reducing signaling load in an emergency mode. (*Schuster*, Title.) *Schuster* describes that functionally, the gatekeeper is the focal point or "brain" of the internet telephony signaling system. The gatekeeper can provide important services such as addressing, authorization, authentication, bandwidth management, accounting, billing, charging, and call routing, among others. (*Schuster*, col. 8, lines 23-28.) *Schuster* describes that a processor in the gateway/terminal may, for instance, be programmed to respond to a state of congestion by switching to a mode (e.g., a pre-programmed "emergency" mode) in which the gateway/terminal at least temporarily does not transmit (or transmits less often) a particular type or types of signaling request message to the signaling server upon receipt of call requests. (*Schuster*, col. 14, lines 41-57, emphasis added.) *Schuster* describes that the gateway/terminal may be programmed to limit incoming calls to only a predetermined set of telephone numbers. These telephone numbers may be emergency service numbers (such as police and fire) for instance or other desired numbers. (See *Schuster*, col. 14, lines 62-66.)

*Schuster* does not describe, as required by claim 1, receiving, in the intermediary node, a second message destined for the upstream node, the second message from a second downstream node; in response to receiving the second message, determining in the intermediary node whether the back-off time period in said first outgoing back-off message sent to the first downstream node has expired; and if the back-off time period sent to the first downstream node has not expired, sending a second outgoing back-off message from the intermediary node to the second downstream node.

*Schuster* in combination with *Rosenberg* also does not suggest claim 1. *Rosenberg* describes a method for wide area network service location. (*Rosenberg*, Title.) *Rosenberg* describes that the frequency of the advertisements from a server is set to scale back based on a technique. The technique involves setting the period of advertisements from the server to the number of other servers which send advertisements to the group (N) times some basic period (Tb). This limits the total amount of bandwidth on a multicast group to roughly one packet every Tb seconds and is independent of the number of servers advertising. (See *Rosenberg*, col. 3, lines 40-51.)

*Schuster* in combination with *Rosenberg* does not suggest, as required by claim 1, receiving, in the intermediary node, a second message destined for the upstream node, the second message from a second downstream node; in response to receiving the second message, determining in the intermediary node whether the back-off time period in said first outgoing back-off message sent to the first downstream node has expired; and if the back-off time period sent to the first downstream node has not expired, sending a second outgoing back-off message from the intermediary node to the second downstream node.

*Schuster* in combination with *Rosenberg* in combination with *Pelissier* also does not suggest claim 1. *Pelissier* describes a method for detection of stale cells following route changes in a data communication. (*Pelissier*, Title.) *Pelissier* describes a data communication network that includes a transmitter, which upon detection of a failure in a route of a network, retransmits data tagged as resent data along a different route; and a receiver, which upon detection of tagged data, utilizes tagged data for data communications while discarding previously transmitted data that are not tagged to avoid data duplication. (*Pelissier*, col. 2, lines 16-24.)

*Schuster* in combination with *Rosenberg* in combination with *Pelissier* also does not suggest, as required by claim 1, receiving, in the intermediary node, a second message destined for the upstream node, the second message from a second downstream node; in response to receiving the second message, determining in the intermediary node whether the back-off time period in said first outgoing back-off message sent to the first downstream node has expired; and if the back-off time period sent to the first downstream node has not expired, sending a second outgoing back-off message from the intermediary node to the second downstream node.

Therefore, claim 1 is patentable over *Schuster* in combination with *Rosenberg* in combination with *Pelissier*.

The combined teachings of *Schuster* in view of *Rosenberg* in view of *Pelissier* also do not disclose, suggest, or render obvious claim 14. Claim 14, as amended, recites: “using the intermediary network node to detect network congestion on at least the landline network; determining, in the intermediary network node, that a first request received by the intermediary network node from one of the clients destined for one of the servers should not be forwarded by the intermediary network node, based on network congestion on the landline network detected by the intermediary network node;” and “receiving, in the intermediary node, a second request destined for said one of the servers, the second request from the mobile client; in response to receiving the second request, determining in the intermediary node whether the back-off time period in said first outgoing back-off message sent to the first client has expired; and if the back-off time period sent to the first client has not expired, sending a second outgoing back-off message from the intermediary node to the mobile client.”

Accordingly, for reasons similar to those described above regarding claim 1, claim 14 is also patentable over *Schuster* in view of *Rosenberg* in view of *Pelissier*. In addition, *Schuster* in view of *Rosenberg* in view of *Pelissier* does not suggest, in particular, detecting network congestion on the landline network; sending a first outgoing back-off message from the intermediary node to a first client; receiving, in the intermediary node, a second request from a mobile client; in response to receiving the second request, determining in the intermediary node whether the back-off time period sent to the first client has expired; and if the back-off time period sent to the first client has not expired, sending a second outgoing back-off message from the intermediary node to the mobile client.

*Schuster* describes that a telephone device may be a conventional analog telephone (e.g., a "black box telephone"), a digital telephone, a videophone, and/or a multi-media personal computer, or a standard analog or digital telephone, whether corded or wireless. However, *Schuster* does not describe the required relationship between a landline network and a mobile client recited by claim 14.

*Schuster* in view of *Rosenberg* in view of *Pelissier* also does not suggest this required relationship. As discussed above, *Rosenberg* describes a method for wide area network service location (*Rosenberg*, Title). *Pelissier* describes a method for detection of stale cells following route changes in a data communication (*Pelissier*, Title). *Schuster* in view of *Rosenberg* in view of *Pelissier* does not suggest, as required by claim 14, "using the intermediary network node to detect network congestion on at least the landline network; determining, in the intermediary network node, that a first request received by the intermediary network node from one of the clients destined for one of the servers should not be forwarded by the intermediary network node, based on network congestion on the landline network detected by the intermediary network

node;” and “receiving, in the intermediary node, a second request destined for said one of the servers, the second request from the mobile client; in response to receiving the second request, determining in the intermediary node whether the back-off time period in said first outgoing back-off message sent to the first client has expired; and if the back-off time period sent to the first client has not expired, sending a second outgoing back-off message from the intermediary node to the mobile client.”

Therefore, claim 14 is also patentable over *Schuster* in combination with *Rosenberg* in combination with *Pelissier*.

Independent claims 24, 25, and 26 each has been amended to recite limitations similar to those of claim 1. Accordingly, claims 24, 25, and 26 are each also patentable over *Schuster* in combination with *Rosenberg* in combination with *Pelissier* for at least the reasons discussed above.

The remaining claims depend, directly or indirectly, from one of the foregoing independent claims. In view of the above remarks, a specific discussion of these dependent claims is considered to be unnecessary. Therefore, Applicants’ silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim. Applicants respectfully submit that *Schuster* and *Rosenberg* and *Pelissier* fail to render obvious dependent claims for at least the reasons discussed above with respect to the independent claims.

Accordingly, Applicants respectfully submit that claims 1, 3-7, 13-15, 17, 18, 23-26, and 28-31, and 34 are in condition for allowance and respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

### New Claims

New claims 35-39 have been added. Claims 35-37 recite limitations similar to those previously presented in claim 1.

Support for the new claims 35-39 is found in the specification. Support for claim 35 is found in the specification in, but not limited to, paragraph 0018, for example. Support for claims 36 and 37 is found in the specification in, but not limited to, paragraph 0038, for example. Support for claim 38 is found in the specification in, but not limited to, paragraph 0023, for example. Support for claim 39 is found in the specification in, but not limited to, paragraphs 0020, 0022, and 0036, for example.

New claims 35-39 depend directly or indirectly from claim 1. Therefore, for at least the reasons discussed above with regard to claim 1, new claims 35-39 are also patentable over *Schuster and Rosenberg* and *Pelissier*.

CONCLUSION

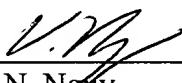
Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Mr. Jordan Becker at (408) 720-8300 or Ms. Van Nguy.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Van N. Nguy  
Reg. No.55,851

Customer No. 26529  
12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025  
(408) 720-8300